



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj.us

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF CLEARLINX
NETWORK CORPORATION FOR APPROVAL
TO PROVIDE LOCAL EXCHANGE AND
INTEREXCHANGE TELECOMMUNICATIONS
SERVICES WITHIN THE STATE OF NEW JERSEY

) **ORDER**
)

DOCKET NO. TE05121059

(SERVICE LIST ATTACHED)

BY THE BOARD:

Pursuant to N.J.S.A. 48:2-1 et seq. and Section 253 of the federal Telecommunications Act of 1996, 47 U.S.C. §151 et seq., and by letter dated December 21, 2005, ClearLinx Network Corporation ("Petitioner" or "ClearLinx"), filed a Petition with the New Jersey Board of Public Utilities ("Board") requesting authority to provide facilities-based competitive local exchange and interexchange telecommunications services throughout the State of New Jersey. Petitioner has submitted its financial information under seal along with a sworn affidavit with substantiation for confidential treatment in accordance with the Board's rules for determining confidentiality, N.J.A.C. 14:1-12 et seq. and in compliance with the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

ClearLinx is a privately held corporation organized under the laws of the State of Delaware. Manire Limited Partnerships, Sevin Rosen Fund VIII, LP, Centennial Ventures, VII, Centerpoint Venture Fund VIII (Q) LP and Columbia Capital Equity Partners III (QP) LP have 12.6%, 19.4%, 19.3%, 19.3% and 10.6% ownership interest in ClearLinx, respectively. The remaining 18.80% is owned by numerous shareholders with each having less than 10% ownership interest in the company. None of these minority shareholders holds managerial or operational control over ClearLinx. Petitioner's principal offices are located at 1901 S. Meyers Road, Suite 190, Oakbrook Terrace, Illinois 60181.

Petitioner has submitted copies of its Certificate of Incorporation from the State of Delaware and its New Jersey Certificate of Authority to Operate as a Foreign Corporation. According to the Petition, ClearLinx was formed to provide facilities-based competitive local exchange and interexchange telecommunications services within the State of New Jersey. Petitioner is currently authorized to provide telecommunications services in California, Maryland, Massachusetts, Michigan and Rhode Island. Petitioner states that it has not been denied authority to provide telecommunications services, it has not been the subject of any civil or criminal proceedings, and its authority has not been revoked in any jurisdiction. Petitioner also states that it has not entered into an interconnection agreement with an incumbent local exchange carrier because presently it does not provide local exchange or retail telecommunications services to residential and business dial-tone customers or end-users.

Petitioner seeks authority to provide facilities-based competitive local exchange and interexchange telecommunications services in the State of New Jersey. Petitioner states that it plans to provide non-switched and non-discriminatory point-to-point intra and interstate telecommunications signal transport service on-demand to its similarly situated Wireless Services Provider ("WSP") customers on substantially similar terms, subject to the availability of facilities and capacity on first come first served basis throughout New Jersey. Petitioner states that its customers will be the WSPs offering cellular and personal communications services to end users. Petitioner states that it will deploy its fiber optic cables in and on existing conduits, ducts, poles and rights of way of other telecommunications carriers, utilities and municipalities wherever possible. Petitioner further states that these facilities will be obtained either from Verizon – New Jersey, Inc. or from other service providers under contract. Petitioner states that its initial plan is to offer non-switched dedicated point-to-point circuit carried on fiber optic facilities. Said circuit will carry Radio Frequency Traffic of WSP between the company's newly-deployed shared distributed antenna system networks and WSP's existing facilities or through collocation facilities leased to WSPs by the company. Petitioner further states that the company proposes to provide these services through a combination of its own facilities and facilities and services obtained from a variety of existing carriers and other suppliers. Petitioner states that currently it has no telephone network facilities under construction in New Jersey and that it designs and constructs its facilities only upon receiving a request and commitment to take and pay for services from a customer or potential customer. Petitioner anticipates that it will sign between one to three customer contracts within the first year of its operation and three to seven customer contracts within the first five years of its operation. Petitioner states that it maintains a toll-free number for customer service inquiries and under Docket No. TT05121060 has filed a proposed tariff with the Board.

Petitioner requests a waiver of N.J.S.A. 48:3-7.8 and N.J.A.C. 14:1-4.3, which requires that books and records be kept within the State of New Jersey and be maintained in accordance with the Uniform System of Accounts ("USOA"), respectively. In the interest of efficiency and to prevent undue burden, Petitioner requests permission to maintain its books and records in accordance with Generally Accepted Accounting Principles and to keep all books, records, documents and other writings incident to the conduct of Petitioner's business in the State of New Jersey at Petitioner's corporate office at Oakbrook Terrace, Illinois. Petitioner also states, upon written notice from the Board and/or Board Staff, it will provide its books and records at such time and place within New Jersey as the Board may designate and will pay any reasonable expenses for examination of the records.

Petitioner asserts that approval of its Petition will further the public interest by expanding the availability of competitive telecommunications services in the State of New Jersey. Petitioner also asserts that approval of this Petition will provide New Jersey customers with access to new technologies and service choices and will permit customers to achieve increased efficiencies and cost savings.

With regard to its technical and managerial qualifications, ClearLinx states that it possesses the technical capability and managerial qualifications to operate and manage its telecommunications operations in the State of New Jersey. Petitioner has submitted the professional biographies of its key personnel who, according to ClearLinx, are well qualified to execute its business plans and have extensive managerial and technical experience in the telecommunications industry.

DISCUSSION

On February 8, 1996, the federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. §151 et seq., was signed into law, removing barriers to competition by providing that:

[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

[47 U.S.C. §253(a)].

Therefore, Board approval of Petitioner's entry into the telecommunications marketplace is required, assuming Petitioner is in compliance with the Board's filing requirements to provide telecommunications services in New Jersey.

In considering this Petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 47 U.S.C. §253(a). The Board also considers the New Jersey State Legislature's declaration that it is the policy of the State to provide diversity in the supply of telecommunications services and the Legislature's findings that "competition will promote efficiency, reduce regulatory delay, and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed ClearLinx's Petition and the information supplied in support thereof, the Board FINDS that the Petitioner is in compliance with the Board's filing requirements to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES the Petitioner to provide local exchange and interexchange telecommunications services throughout New Jersey. The Board also FINDS that in accordance with N.J.S.A. 48:2-59 and 48:2-60 and N.J.S.A. 52:27E-61 and 52:27E-62, the Petitioner is subject to an annual assessment by both the Board and the Division of the Ratepayer Advocate, respectively. The Board notes that the Petitioner has filed a proposed tariff under Docket No. TT05121060.

The Board HEREBY ORDERS that:

- 1) Pursuant to N.J.S.A. 48:2-16(2)(b) and N.J.A.C. 14:3-6.3, Petitioner shall file an annual report as of December 31 of each year, which is due on or before March 31 of the following year. Pursuant to N.J.S.A. 48:2-16.3, if Petitioner fails to file an annual report by the due date, Petitioner shall be subject to a penalty of \$5.00 for each day thereafter until such report is filed.
- 2) Pursuant to N.J.S.A. 48:2-62, Petitioner shall file a statement of gross intrastate revenues from operations form (AR3-1) as of December 31 of each year, which is due on or before June 1 of the following year.

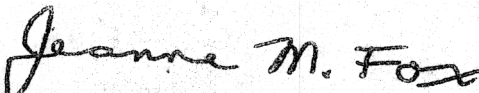
On or before February 1st of each year, the Petitioner will receive from the Division of Audits an annual report package and a statement of gross intrastate revenues from operations form for the preceding calendar year. The purpose of these documents is to report the Petitioner's financial information and gross intrastate revenues from operations as of December 31 of each year. The annual report and a statement of gross intrastate revenues from operations form are due on or before March 31 and June 1 of the following year, respectively. If Petitioner does not receive these documents, it is Petitioner's responsibility to obtain them from the Board. It is also the Petitioner's responsibility to ensure timely filing of these reports.

Regarding the Petitioner's request for waivers of the Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief from its requirements that the Petitioner maintains its books and records in accordance with USOA and within New Jersey. Therefore, subject to the Petitioner's continuing responsibility to provide the Board books and records upon 48 hours notice, and in the manner requested, and to pay to the Board any reasonable

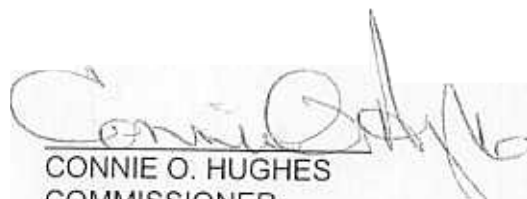
expenses or charges incurred by the Board for any investigation or examination of these books and records, the Board APPROVES the Petitioner's request for the exemptions from maintaining its books and records in accordance with USOA and in New Jersey.

DATED: 4/13/06

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT

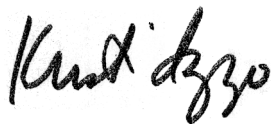

FREDERICK F. BUTLER
COMMISSIONER


CONNIE O. HUGHES
COMMISSIONER

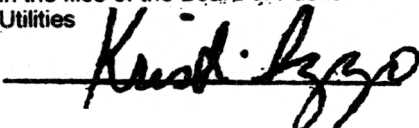

JOSEPH L. FIORDALISO
COMMISSIONER


CHRISTINE V. BATOR
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public
Utilities



IN THE MATTER OF THE PETITION OF CLEARLINX NETWORK CORPORATION INC. FOR
APPROVAL TO PROVIDE LOCAL EXCHANGE AND INTEREXCHANGE
TELECOMMUNICATIONS SERVICES WITHIN
THE STATE OF NEW JERSEY

DOCKET NO. TE05121059

SERVICE LIST

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4. **Ratepayer Advocate:**

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2. **Petitioner's Attorney:**

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